



VESTED WATER RIGHTS IN NEVADA

**Nevada
Water
Resources
Association**



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**Humbolt River
Basin Water
Authority**

LINKS & CONTACTS

Walt Leberski

241 Fir St.
Elko, Nevada 89803
775-738-6342
walterleberski@yahoo-com

Carl Slagowski

HC 65 Box 30
Carlin, Nevada
775-754-2377

R- Michael Turnipseed

Turnipseed Engineering
204 N. Minnesota Street
Carson City, Nevada 89703
775-885-2101
mike_turnipseed@sbcglobal.net

Nevada Water Resources Association

PO Box 8064
Reno, Nevada 89507
Donna Bloom, Executive Director
775-626-6389
www.nvwra.org

Nevada Division of Water Resources

901 South Stewart Street, Ste. 2002
Carson City, Nevada 89701
Tracy Taylor, P.E., Nevada State Engineer
775-684-2400
www.ndwr.state.nv.us

Humboldt River Basin Water Authority

PO Box 2008
Carson City, Nevada 89702
Mike Baughman, Executive Director
775-883-2051
mikebaughman@isc.nv.com

Central Nevada Regional Water Authority

PO Box 475
Eureka, Nevada 89316
Jon Hutchings, Executive Director
775-237-6010
jhutchings@eurekanv.org

Southern Nevada Water Authority

www.snwa.com

Truckee Meadows Water Authority

www.tmh2o.com

Washoe County Department of Water Resources

www.co.washoe.nv.us

Nevada Cattleman's Association

PO Box 310
Elko, Nevada 89803
Rachel Buzzetti, Executive Director
775-738-9214
nca@nevadabeef.org

Nevada Farm Bureau

2165 Green Vista Drive, Suite 205
Sparks, Nevada 89431
Doug Busselman, Executive Vice President
775-674-4000
dbusselman@aol.com

Nevada State Legislature Law Library

www.leg.state.nv.us

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USEFUL DEFINITIONS AND MEASURES

Beneficial Use - The use for which water is appropriated (e.g., irrigation, mining and milling, municipal, etc...). A water right is limited to the amount of water reasonably and economically necessary to serve a particular beneficial use; therefore, beneficial use is the basis, measure, and limit of a water right.

Duty - The volume of water permitted per acre of irrigated land. Duty is typically between 3.5 and 5.0 acre-feet per acre, but can be less for native pasture.

Manner of Use (MOU) - The particular beneficial use for which water is appropriated, typically documented in water right permit.

Place of Use (POU) - The specific location, typically documented in a water right permit, where water is used. For irrigation, the land to which a water right is appurtenant. A water right cannot be put to use at another location without properly transferring the right or obtaining a new right.

Point of Diversion (POD) - The location at which surface or underground water is diverted from its source for the purposes of beneficial use.

Priority Date - The date and time that an original application to divert water is filed with the Office of the State Engineer. In the case of pre-statutory vested water rights, priority date is the date that work was commenced to create a water right (e.g., the date the first shovel was turned on a diversion ditch or dug well). The date of priority establishes the precedence of a water right against all later appropriations. The concept of priority is commonly termed "first in time, first in right."

Water Right - A property right to the use of water that belongs to the public of the State of Nevada. Water rights are established and maintained by beneficial use and can be conveyed, mortgaged, and encumbered independently from the land on which the water originates, or on which it is used.

Vested Water Right - A ground water or surface water right that pre-dates statutory water law. By virtue of their early pre-statutory nature, vested rights enjoy maximum protection against later appropriations and later statutory provisions. This protection does not extend to forfeiture and abandonment of ground water rights (NRS 534.090).

Acre Foot - A volume of water that covers one acre of land one foot in depth. An acre foot equals 43,560 cubic feet and 325,851 gallons.

Miners Inch - A rate of flow equal to 1/40 of a second foot, or about 11.2 gallons per minute.

Second Foot - A rate of flow, properly termed cubic feet per second, that is equal to 448.83 gallons per minute.

CURRENT WATER RIGHT VALUES

Reno-Sparks Area

Truckee River decreed rights - _____ to _____ ac.ft.

Underground rights - _____ to _____/ac.ft.

Spanish Springs North of Sparks

Truckee River decreed right - _____ to _____/ac.ft.

Underground rights - _____ to _____/ac.ft.

Lemon Valley North of Reno

Surface rights - _____/ac.ft.

Underground rights - _____ to _____/ac.ft.

Fallon Area

Surface rights - _____ to _____/ac.ft. - Carson River below Lahontan Reservoir

Surface rights - _____ to _____/ac.ft. - Carson River above Lahontan Reservoir

Underground rights - _____/ac.ft.

Battle Mountain Area

Humboldt River decree rights - _____ \$235/ac.ft.

Underground rights - _____/ac.ft.

Las Vegas Area

Surface rights - _____/ac.ft.

Underground rights - _____/ac.ft.

Carson Valley

Surface rights - _____ to _____/ac.ft. - Carson River

Underground rights - _____/ac.ft.

Dayton Valley

Surface - _____ to _____/ac.ft. - Carson River

Underground - _____/ac.ft.

Pahrump Valley

Surface - _____/ac.ft.

Underground - _____ to _____/ac.ft. Valley Floor water rights

Underground - _____ to _____/ac.ft. Fan Water rights

Carson City

Surface - _____ to _____/ac.ft. - Carson River

Underground - _____/ac.ft.

Yerington & Smith Valley

Surface - _____ to _____/ac.ft. - Walker River

NEVADA WATER LAW AND CLAIMS TO VESTED WATER RIGHTS

(R. Michael Turnipseed)

Water Rights Ownership

- A.** A water right is a usufructory right but is treated as real property and can be owned separate from the property.
- B.** Water rights are an appurtenance to the property and are passed from seller to buyer unless the rights are specifically excluded or reserved on the deed.
 - 1. Should a specific amount of water be designated in the deed and the remainder is not reserved, the entire amount is included as an appurtenance.
 - 2. Specification of rate of flow does not transfer a particular volume of water.
 - 3. Ownership statement on a final subdivision map must include a reservation or exclusion clause or the dedicated streets and properties will include appurtenant water rights.
- C.** The owner of record noted at the State Engineer's office is the result of filing copies of deeds and a report of conveyance from the permittee to the current owner – NRS 533.384.
 - 1. The assignment of ownership does not occur automatically when a deed is recorded in the county.
 - 2. Title companies do not research water right title and they will not issue title insurance on water right ownership.
- D.** Copies of recorded deeds and the report of conveyance must be filed with the Nevada State Engineer to update water right ownership.
- E.** The ownership of stock or shares in a ditch company does not constitute ownership of a water right.
 - 1. The ditch company has constructed the means of transporting the water from the river or stream to the place of use and stock or shares allow you to receive water.
 - 2. A share in a ditch company is not a water right.
- F.** Definition of Vested Water Right
- G.** Definition of Federal Reserved Water Right

Key Dates in Nevada Water Law

A. 1903 – Nevada State Engineer’s Office created (NRS Chapter 532):

1. Senator Newlands and USGS promote legislation for the creation of the Nevada State Engineer’s Office.
2. Needed state water regulatory agency to promote approval of Nevada as a recipient of a federal reclamation project to be owned and administered by the newly established Bureau of Reclamation.
3. Bureau of Reclamation started in 1902, and Derby Dam on the Truckee River is the first dam constructed by the Bureau.

B. 1905 – Nevada Water Law (NRS Chapter 533):

1. Water belongs to the public (NRS 533.025)
 - a. Water Rights issued and/or acknowledged by the Nevada State Engineer belongs to the owner of record.
2. Nevada Water Law if based on appropriation for beneficial use (NRS 533.030)
3. Appropriative vs. Riparian Water Law
 - a. California ground water – Riparian rights
 - b. Carson River in California – Riparian rights
 - c. Water belongs to the land
4. Vested water right for surface water sources established by diverting and placing water to beneficial use prior to 1905.
 - a. Vested rights for surface water may not be recorded at the Nevada State Engineer’s Office; however, these rights are still valid (NRS 533.085)
 - b. Claims of vested water rights will be adjudicated in the future.
 - c. Claims may be filed in the County Court Recorders or Clerks Office.
 - d. Doctrine of Relation allows for the establishment of a priority to be determined by the date the diversion was placed in the streams.
5. After 1905, simple use of water does not constitute a vested or prescriptive right.

C. 1913 – A Prescriptive Right to water cannot be acquired by adverse use or possession (NRS 533.060):

D. 1939 – Ground Water Law (NRS Chapter 534):

1. Underground water belongs to the public and is subject to appropriation for beneficial use (NRS 534.020).
2. Vested water right for underground water sources is established by diverting and placing water to beneficial use prior to 1939 (NRS 534.100).

Appropriation of Water

- A.** File an application and supporting map with the Nevada State Engineer to appropriate surface or underground water rights along with the proper filing fee
 - 1. The date and time when the original application is filed establishes its priority.
 - 2. The supporting map illustrating the point of diversion and the place of use must be prepared and signed by a Nevada State water right surveyor (NRS 533.080).
- B.** A notice is published in a local county newspaper once a week for five weeks to notify interested parties that an application has been filed.
- C.** A thirty-day protest period will follow the published notice to enable any concerned party the opportunity to file a protest to the proposed appropriation water.
 - 1. A protest can be filed at any time from the filing of the original application to the completion of the protest period.
 - 2. Once the thirty-day protest period is completed, only a letter of concern can be submitted to the Nevada State Engineer.
- D.** Once the publication and the protest periods have been completed, action can be taken by the Nevada State Engineer.
 - 1. If a protest is filed, the Nevada State Engineer may conduct either a field investigation or an administrative hearing.
 - i. Determination will be made as to whether or not the proposed diversion of water will affect existing water rights.
 - ii. Protestant will be required to support the claim of interference with existing water rights.
 - iii. Applicant must support the claim that additional diversions from the source of water will not affect existing water rights.
 - iv. Testimony submitted during the field investigation or hearing must be substantial enough to support filing a petition to overrule the Nevada State Engineer's decision in a court of law.
 - 2. The application can either be approved as requested, reduced in rate of flow and volume, and then approved or denied.
- E.** When approved, the application will become a permit that will be imposed with terms and conditions of performance.
 - 1. An affidavit known as the "Proof of Completion" must be filed on or before the stipulated due date.
 - i. The proof of completion is a description of the improvements that enable the permittee to divert water to the proposed place of use.
 - 2. An affidavit known as the "Proof of Beneficial Use" must be filed on or before stipulated due date.
 - i. The proof of beneficial use describes the exact rate of flow and volume of water that is being placed to beneficial use.
 - a. Additional mapping may be required to document the location and extent of irrigated acreages and water service to particular lots within a subdivision.
 - ii. Should there be a remainder of water granted under the permit that is not being beneficially used, that portion will revert to the state.
- F.** Extensions of time may be granted for the filing of both the proofs of completion and beneficial use.
 - 1. Each extension may be granted for a maximum of one year at which time the proof or another extension must be filed.
- G.** A Water Right Permit may be lost by abandonment or forfeiture.
 - 1. Failure for five successive years after April 15, 1967, to use beneficially all or any part of the underground water for the purpose for which the right is acquired, constitutes forfeiture (NRS 534.090).
 - i. The Nevada State Engineer and/or an individual can initiate forfeiture.
 - a. Slander of title action may be pursued if the person requesting forfeiture cannot substantiate non-use of water.
 - ii. The Nevada State Engineer may, upon request, extend the time necessary to work forfeiture; however, no single extension may exceed one year.

2. If an owner fails to use certified water for beneficial purposes for which the right of use exists during any five successive years, the right shall be deemed as having been abandoned (NRS 533.060)
- H.** Revocable underground permits have been approved in the Las Vegas Valley area, which provide for the termination of a permit by the Nevada State Engineer once an alternate source of water is economically available.
1. Revocable permits still being issued; however, only for those users that had a permit that was cancelled and for any uses less than 1800 gallons per day in those areas not capable of receiving water from a purveyor.

Applications to Change

- A.** The point of diversion, place of use, manner of use and period of use of an existing water right can be changed upon approval by the Nevada State Engineer.
1. Permanent applications to change (NRS 533.345)
 2. Temporary applications to change (NRS 533.345)
 - i. Temporary permits may not be granted to exceed one year.
- B.** Applications to change follow the same review process as an original application.
1. Filing fees and supporting map.
 2. Publication and protest periods.
 3. Decision made by the Nevada State Engineer.
 4. Permit terms, proofs of completion and beneficial use date dates.
- C.** Changing the point of diversion may cause a senior priority right to impact a junior priority right.
1. Should the new diversion site affect another water right, the application to change may be denied or modified due to interference with other water rights.
 2. A change in the point of diversion may cause a loss of priority.
- D.** Changes in the manner of use are common; however, certain changes may be restricted due to their preferred status.
1. Agricultural rights are frequently changed to municipal, commercial, industrial, and recreational uses and in some instances, only the consumptive use will be transferred.
 2. Preferred uses of water can be declared by the Nevada State Engineer and proposals to changes in the manner of use from a preferred use to a non-preferred use may not be approved (NRS 534.120).
 - i. Municipal rights may not be changed to irrigation.
 - ii. Mining and milling rights may not be allowed to be changed to irrigation.
- E.** The period of use may be changed to accommodate year round use instead of seasonal use.
- F.** When two or more water rights cover the same place of use, an application to change must be filed to change all water rights.
1. For example: if two irrigation water rights are approved to irrigate the same acreage, one right cannot be removed without removing the second right.

Appeals

- A.** Decisions and ruling issued by the Nevada State Engineer can be subjected to judicial review.
1. By filing an appeal within the proper court of the county in which the matters affected or a portion is situated.
- B.** On a decreed stream system, any appeal must be in the court that entered the decree, within 30 days of the decision (NRS 535.450).

Adjudication of Vested and Federal Reserved Water Rights

- A.** Process can be started by the State Engineer on his own motion or be referred to him by a District Court.
 - 1. Notification of potential water right owners.
 - 2. A notice is published in the newspaper having general circulation in the county where the adjudication is taking place.
 - 3. Notices are sent certified mail to every property owner, every mining claimant, every livestock operator with a grazing permit, The Bureau of Land Management, the Forest Service, and the U.S. Attorney General.
 - 4. All claims and supporting maps must state the name of the owner, the priority date when various beneficial uses occurred, the acreage irrigated, the culture (grass, meadow hay, pasture, and harvested), the amount of water diverted and placed to beneficial use.
 - 5. The State Engineer will schedule field investigations with the claimant to verify the claimed, and measure the water.
 - 6. The State Engineer will prepare an Abstract of Claims and a Preliminary Order of Determination and set a time to inspect the State Engineer's findings and set a time to file objections to the Preliminary Order. Every claimant will get a copy of the Preliminary Order.
 - 7. The State Engineer will hold hearings grouped by ditch or Spring, and hear testimony on how the Preliminary Order should be changed in the Final Order.
 - 8. The State Engineer will file the Order of Determination with the District Court and every Claimant will get a copy and have the court set a time to file objection to the Order of Determination.
 - 9. The court will hold hearings and take testimony on how the Order of Determination should be changed.
 - 10. At this point, the State Engineer can distribute the water according to priority.
 - 11. The court will issue a final decree that is appealable to the State Supreme Court.
 - 12. At all times, the State Engineer and his Water Commissioners are officers of the court when carrying out the court's duties and enforcing the decree.
 - 13. Any harassment of the Water Commissioners or the State Engineer in carrying out their duties will result in a petition to the court to find that person in contempt.
- B.** Types of claims
 - 1. Irrigation
 - 2. Livestock watering
 - i. PWR's (public water reserves)
 - ii. Instream flows
 - 3. Mining
 - 4. Municipal

FILING CLAIMS TO VESTED WATER RIGHTS

GATHERING INFORMATION FOR PROOF OF CLAIM OF VESTED WATER RIGHTS (Walt Leberski)

Why File Claims of Vested Water Rights? A vested water right is the strongest form of property right in water that exists under Nevada law. An adjudicated claim to a vested water right protects the owner from regulation of water use that may be imposed on nearby permitted water rights and establishes a priority date that precedes all statutory water rights. A vested water right cannot be forfeited for non-use, nor abandoned. By virtue of its protection under the law, a vested water right is the most valuable form of water right. In order to receive that protection and value, one must properly claim the right and then see it adjudicated.

Questions often arise about the benefit of claiming vested rights on waters where permits to appropriate water have already been issued. If a permitted water right exists, is that an indication that the applicant recognized there was no vested right? Usually, no... If one applies for a permitted right to use water where a vested right exists, but is unclaimed, the State Engineer has no way of knowing the vested right is there. The existence of a permit should never be construed to imply the absence of an underlying vested right.

When should one begin the process?

It is never too early to begin gathering information.
It is often a continuing process.

What does it take to prepare a valid claim? Mostly time. Researching patents, deeds and other information that is necessary to prove the claim is tedious work. Water rights attorneys, paralegals, and water rights surveyors can be paid to do the research. Costs can be anywhere from ____ to ____, depending on the number of water rights, land transactions, and detail required to back up the claim. Prior to beginning work on vested water rights, it is best to do a complete search of the existing proofs and permits on file with the State Engineer. This will give some indication as to the amount of work that must be completed to provide documented claims to all waters used.

Where does the information reside?

1. County Records
Recorder
Clerk
Tax Records
2. Nevada Division of State Lands
School Grant Lands
3. Bureau of Land Management
Original grazing applications.
Hearings
Cadastral Surveys
Homestead applications
3. Forest Service
Original applications
4. Newspapers
County Recorders
Museums
5. Biographies and Autobiographies
6. Affidavits
7. State Engineer.
8. Title Companies

How does one go about gathering the information?

1. The first step in gathering information is to obtain a complete history of the ownership of the property from the time of the first occupation to the present, which can be obtained as follows:
 - a. Any title company can prepare "chain of title" which is a good start. The cost will vary according to the size and complexity of the search.
 - b. Any individual can do such a search in the Recorder's Office where the property is located.
 - i. There is usually some individual in the area who can perform such services. It is time consuming and therefore incurs an expense.
 - ii. In some cases students have done this as a research project.
This search is really basic information. There is usually a mountain of information available in the public records, which is not revealed by this "chain of title."
2. Other records to review in the Recorders Office
 - a. Preemption claims
Found in a separate set of books or possible under Miscellaneous Records and are claims made for the settlement of lands prior to a cadastral survey.
 - b. Deeds
Review each deed shown in the chain of title. Older deeds may reference numbers of cattle or other information, which will be helpful.
 - c. Bills of Sale
May provide additional history as to livestock
 - d. Mortgages and Deeds of Trust
These will probably not appear in the chain of title, but may have some information as to hay, machinery, areas of use, etc.
 - e. Miscellaneous Records
This is usually where affidavits, contracts of sale, leases, identities, and possible claims for water rights may be found.
 - f. Water Rights
Some counties maintained a separate set of books for claims of water rights. In many cases, these are found as ditch claims made prior to 1905.
 - g. County Recorders may have variations of sets of books that contain the above information. Inquiry to the Recorder should help in finding the above records.
In a search for the various records, the chain of title is used as a guide for the time period to search each of the records. Usually the indexes are searched for the time period of each ownership with about 10 years before record ownership and 10 years past.
3. County Clerk
 - a. Review Clerk's indexes for suits that may have been made. In some instances, these suits will involve water, livestock, hay contracts or other matters, which will evidence past use of water. Usually this is done only in the event there has been some indication of such a suit from the search in the Recorder's Office.
 - b. It is usually helpful to review any probate proceeding which are evidenced by the search of the Recorder's Office. These will usually contain an appraisal of the property that may or not be of assistance or other information.
4. Tax Records
The County Treasurer maintains past tax records. It is helpful to review these for the period up to 1905 and possibly some years past. Depending on how detailed the Assessor was, they may provide:
 - a. Approximate cultivated acres.
 - b. Numbers of cattle. These are usually quite low.
 - c. Equipment, which may be related to cultivation.

5. Bureau of Land Management
 - a. Cadastral surveys

Some contract surveyors would carefully map and note the culture that was found during their survey for the sections and townships and it may be shown on the plat prepared from their survey. Most contracts for survey only required that the major features found on the line of survey be shown.

However, the contracts also provided that a brief summary of the features seen in the survey also be reported. For that reason, it is helpful to review the minutes of the survey. Most of the BLM districts have these minutes, but if not, they are available in the State Office for review.
 - b. Homestead applications

These will give information on the time of the application, the review of the events leading up to the patent and affidavits as to the proof of cultivation. Most of these must be obtained from Washington, D.C. and are difficult to acquire. The best source to use is legislative aides of the Congressional delegations. In most cases, these have not been especially helpful.
 - c. Hearing Records

Early grazing hearings may be helpful for claims of livestock water and possibly a history of the ranch operation. These will probably be found in the National Archives in San Bruno, California. It is necessary to obtain an index number for these cases from the District or State Office. There are individuals in the area of San Bruno who will make such a search.
 - d. Original grazing applications

All of the districts in Nevada were formed shortly after June, 1934, which was the end of the statutory priority period for grazing on public lands, except for Battle Mountain. Original applications were submitted which stated the number of cattle grazed, a general area of use, the number of years use was made and a general year round operation. In addition, within a few years, most districts conducted a Dependent Property Survey, which may detail property owned, culture, year round operation and priority. These records have been stored in the National Archives in San Bruno.
6. Forest Service

There are a number of records of the Forest Service that may be helpful for priority of livestock use on the Forest Reserve. Most are stored and require considerable effort to acquire. However, in the event it is necessary to prove a vested stock water right prior to 1905, the effort may be worthwhile. I have not tried to access these for some time, but believe they are available at San Bruno.
7. Newspapers

Copies of old newspapers may be available at the following:

 - County Recorder's Office
 - Local Museums
 - State museum

These papers provide news stories as to hay crops, shipments of cattle, ranch sales, suits and other information, which may help to evidence water use. Some museums may have them indexed by name, but most require a review to pick up articles that may be helpful.
8. Biographies, Autobiographies and Histories
 - a. History books

Many libraries have old history books, such as that put out by Thompson and West, which detail early ranch operations. Some of these may provide some priority information and early culture on the lands.
 - b. Biographies and Autobiographies

In many instances, some one interviewed "old timers" and wrote a short history of their

life. Some may have been published in historical societies but many have been retained in the family. Once a search is started for the history of the ranch it is surprising what can be discovered simply by inquiry of family members of past owners.

8. Affidavits

Affidavits by person familiar with past operations can be obtained. As it is necessary to get an affidavit for use prior to 1905, that is impossible at this time. However, third party affidavits ("Grandpa told me") can be obtained in many instances. In the event early use is being contested, such affidavits may be contested, but they can also be very helpful.

9. State Engineer

Of course, the State Engineer has records of all claims that have been filed which should be initially reviewed. There are also maps as to livestock use filed as a result of a 1921 statute, which may be helpful for claims of on stock water.

10. Title companies

Most title companies have a title plant, which in some cases, the companies will allow individuals to use for an hourly charge. This will provide a quick list of owners and other documents and short cut the time and effort in the Recorder's Office. It is not necessary to research all of the sources above. The best source is the Recorder's Office and possibly survey plats. If that provides sufficient information to support the claim, that is probably all that is necessary. However, if it is felt that information is lacking, other sources can be used.

LIVESTOCK WATER RIGHTS


All of the research reviewed has been primarily aimed at irrigation rights. However, some of the information acquired would also be used to evidence claims of livestock water rights, particularly as to information acquired from original grazing applications for the Forest or the BLM. The information desired for a proof on livestock is:

Numbers

Season of Use

Place of Use

Priority



Stockwater, under a vested claim, has the same required priority date as irrigation, that is, prior to 1905. Again, that is becoming more and more difficult to evidence. The best sources seem to be the original Forest application and the original BLM application. In 1995, Senator Rhoads sponsored legislation that would provide for a proof on "subsisting stock water rights." It is necessary to prove those in much the same manner as a vested right, but it specifically provided that the original BLM and Forest Service applications could suffice. Since its passage, it has been interpreted that such evidence would be accepted as showing a priority of prior to 1905. Therefore, there may not be too great a difference between "vested" and "subsisting" as far as proof and priority. In a number of basins, which have been adjudicated, there were no specific proofs filed for stock water on the public lands. At the time of adjudication, the basin was declared to be fully appropriated which precluded any stock water permits on tributaries in the basin. The 1995 statute specifically provided that claims under "subsisting rights" could be recognized by the State Engineer. This also provided a means to document the demand upon surface waters for stock water. In the event, a basin is adjudicated, but there are no specifics as to livestock water, it is recommended this statute be used and proofs filed.

SUPPORT ALL CLAIMS WITH SOME WRITTEN EVIDENCE WHICH CAN BE ATTACHED TO THE CLAIM

A RANCHER'S PERSPECTIVE

TESTIMONIAL – SLAGOWSKI RANCHES

PINE VALLEY, NEVADA

(Carl Slagowski)

I was asked by the Nevada Water Resources Association to participate in this forum as an industry representative because Slagowski Ranches has been actively pursuing claims of vested use to protect the ranch's stock water. My contribution is to relate 1) the reasoning behind our decision to file vested claims and 2) the process we had to go through to get it done.

About 30 years ago, my dad and I attended a meeting at the Stockmen's Hotel in Elko. In attendance were stockmen and water users from across the State along with then State Engineer, Pete Morros. I do not remember the details of that meeting, but my dad and I came away with a clear understanding that we had better apply for stock water on our allotments or else the U. S. Government, through the Bureau of Land Management (BLM), most likely would.

We began to see the BLM applying for and being granted certificated rights seeps and springs that stockmen had used for generations. My dad began to file for certificated stock-watering rights in our name to prevent this from happening on our allotments. Our approach then was to apply NRS 533.425 that requires an applicant to demonstrate that a stock-watering right is perfected by developing the spring and putting the water into a trough. Our efforts were stymied at the point the BLM was asked to affirm our ability to hold water rights on their land. Traditionally, this approval was given by way of a Taylor Grazing Act Section 4 Permit or by a Cooperative Agreement. Instead of the traditional approval, the BLM initiated a new policy of requiring grazers to transfer one-half of their water rights to the United States before they would allow any water project to go forward. Those of us who refused to pony up our property were (and remain) unable to obtain permits for stock watering on seeps and springs that we have historically used.

Further investigation into Nevada water law made it clear to me that the only remedy was to file claims of vested use on the ranch's seeps and springs under NRS 533.085, and apply NRS 533.492, a more recent law for subsisting water which allows a person to apply for stock water rights on a drainage under a single application (as opposed to numerous applications for the many seeps, springs and small creeks in a given drainage).

A claim of vested use is filed by completing the requisite blue form and delivering it and a check for \$50 to the State Engineer. These claims are not acted on until someone else applies for the same water and the State adjudicates the water source. The key to a defensible claim is to build a solid body of evidence that proves that the water was used by a chain of predecessors-in-interest reaching back before the establishment of Nevada water law in 1905. Establishing that body of evidence requires the research that Walt talked about. In our case, my dad had done a lot of historical research so that we knew that our claims would predate 1905, so it was a matter of completing the chain of title. My wife and I spent a few afternoons searching records in Eureka, Elko and Lander courthouses putting the chain of title together. My wife, on two occasions, searched records at the State land office in Carson City. They have maps of each township and recorded any action that was taken on any part of it, as well as the names of persons that initiated the action. Our ranch was all State, school and railroad lands, with no homesteads. We also found that land patents were not necessarily the first document in the chain of title.

When I decided to file a claim of vested use on our water, I employed the services of a water surveyor for mapping and location. We took our records to Walt Leberski. He dug up more pertinent information and compiled it in a proper fashion. We attached the information to the claim and filed it with the State Engineer's office. I decided to spend the money up front to compile this information even though the claims may not be acted on for a number of years. My reasoning was that the supporting information is getting harder to come up with as offices get moved, the older generation passes and institutional knowledge is lost. My claims may be acted on in my successors' time and they will have a relatively easy time familiarizing themselves with these claims.

Our ranch has spent approximately \$3,600 to assemble a chain of title and the story that defends the claim. It cost as much as \$550 for a single spring. The cost of the water surveyor varies due to mileage, availability of known section corners, the number of springs being applied for at one time and their proximity to one another. The larger expense is the story and documentation necessary to substantiate the vested claim. This may be somewhat easier in the Humboldt River Basin where affidavits of use already exist in the decree proceedings.

With respect to vested ground water rights, Nevada's Three-Mile Rule (NRS 533.505) was passed by the Nevada legislature in 1925. The law was an attempt to curb the tramp sheep problem in favor of those stockmen with base property. An unexpected consequence was that it encouraged stockmen to develop additional water to expand their ranges. Many of these developments were hand-dug groundwater wells. The underlying rights to these wells are vested if they predate 1939, and the same process I described for seeps and springs applies to these waters.

My hope is that by holding this meeting, we can stimulate your interest in making application for claims of vested use for the stock water within your allotments and private properties, and that we have familiarized you with the procedure so you can proceed with less difficulty. Finally, and perhaps most importantly, you and only you are responsible for initiating the process of securing your property rights. Filing valid claims to vested water rights are an important component of that effort.

Proof of Vested Claims

- A-1. Hydrographic Abstract for a township available on internet (available on-line). The abstract summarizes existing records of the Division of Water Resources.
- A-2. Chain of title to summarize priority information found and evidence applicant is successor to priority.
- A-4. Preemption claim on land. In some instances, will provide evidence of ownership and use prior to the township survey.
- A-5. Water location on the preemption claim showing 1874 priority. This parcel was patented in the late 1890's, but this will give an earlier priority.
- A-6. Ditch location showing a priority of 1904.
- A-7. Ditch location showing a 1901 priority.
- A-7. Tax Roll evidencing ownership of 325 cattle in 1890.
- A-8. Tax Roll showing ownership of horses and cattle in 1900.
- A-9. Original Taylor Grazing Application evidencing priority of at least 1904 with sheep and cattle for waters upon the public grazing lands.
- A-13. Original grazing application showing an 1869 priority with 1,100 cattle on the public grazing lands.
- A-19. Dependent Property Survey conducted by Federal employee, which summarizes priority of numbers and years on the public grazing lands.
- A-21. Affidavit for Homestead proof, used for irrigation rights.
- A-24. Summary of information available from old newspapers.
- A-25. Sample write-up of attachment for proof of evidence of livestock numbers.
- A-28. Internet homepage for the State Lands Patent Database.
- A-29. Entry in County Recorder's Book of Miscellaneous showing 1870 homesteads.
- A-31. Entry in County Recorder's Water Location Book showing 1921 priority ground water right.

I.
Sample of Basic Information
available on internet to search
existing water rights

Hydrographic Abstract

23 January 2007

Number of Records: 41

Selection Criteria: pod_twn IN ('44N') AND pod_rng IN ('56E')

Basin	Application	Change of Application	Cert	File date	App status	Source	Point of Diversion			Diversion rate	Use	Irrigated Acres	Duty balance	Duty unit	CO	Owner name
							QQ	Q	SEC	TWN	RNG					
037	2985			05-26-14	ABR	STR	NW	NW	33	44N	56E	IRR	160.00	0.00	EL	BAKER, SAMUEL
	3082			08-14-14	WDR	UG	SE	NE	07	44N	56E	IRR	120.00	480.00	AFA	EL BASTIDA, MANUEL
	5125	4629		08-26-18	CAN	STR	LT0		33	44N	56E	IRR	102.94	311.85	AFS	EL ALEXANDER, CAESAR
	5983		1217	02-11-20	CER	STR	NW	NW	33	44N	56E	IRR	25.50	76.50	AFS	EL BAKER, SAMUEL
	12915			05-11-49	CAN	STR			44N	56E	3.000	MM	0.00	0.00	EL	RIFFE, J. J.
	31561			05-09-77	DEN	STR	SE	NW	17	44N	56E	IRR	0.00	0.00	EL	SCHMIDTLEIN, DONNA MARIE
	31562			05-09-77	DEN	STR	SW	SW	08	44N	56E	IRR	0.00	0.00	EL	SCHMIDTLEIN, DONNA MARIE
	57029	V05496		12-20-91	RFA	STR	SE	NW	18	44N	56E	IRR	5.56	22.24	AFS	EL LEBERSKI, WALTER I.
	57030	V05497		12-20-91	RFA	STR	SE	NW	18	44N	56E	IRR	0.09	3.60	AFS	EL LEBERSKI, WALTER I.
	R05358			08-26-91	RES	SPR	SE	NE	07	44N	56E	OTH	0.00	6.05	AFA	EL BLM
	R05359			08-26-91	RES	SPR	SW	NE	20	44N	56E	OTH	0.00	6.38	AFA	EL BLM
	R05360			08-26-91	RES	SPR	NW	SW	20	44N	56E	OTH	0.00	9.18	AFA	EL BLM
	R05361			08-26-91	RES	SPR	NW	NE	20	44N	56E	OTH	0.00	8.07	AFA	EL BLM
	R05362			08-26-91	RES	SPR	LT0		30	44N	56E	OTH	0.00	4.94	AFA	EL BLM
	R05363			08-26-91	RES	SPR	LT0		32	44N	56E	OTH	0.00	5.16	AFA	EL BLM
	V01246			10-14-12	VST	STR	SW	SW	08	44N	56E	IRR	73.87	369.35	AFA	EL ELLISON RANCHING COMPANY
	V01247			10-14-12	VST	STR	SE	NW	17	44N	56E	IRR	16.64	83.20	AFA	EL ELLISON RANCHING COMPANY
	V04072			02-11-83	VST	STR	SW	SE	05	44N	56E	STK	0.00	11.88	AFS	EL RANCHO GRANDE, INC.
	V04081			02-11-83	VST	SPR	SW	NE	07	44N	56E	STK	0.00	0.00		EL CAL WORTHINGTON TRUST
	V04082			02-11-83	VST	SPR	LT0		06	44N	56E	STK	0.00	0.00		EL CAL WORTHINGTON TRUST
	V05496			10-11-91	VST	STR	LT0		07	44N	56E	IRR	6.46	19.38	AFS	EL J. GRISWOLD FAMILY TRUST
	V05497			10-11-91	VST	STR	LT1		12	44N	56E	IRR	1.44	4.32	AFS	EL J. GRISWOLD FAMILY TRUST 1/3 INT
CHANGED BY: 57029																

CHANGED BY: 57029

RFA

STR

ELLISON RANCHING COMPANY

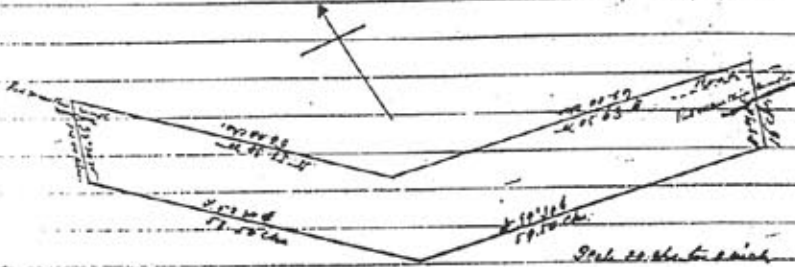
COTTONWOOD
T25N, R41EFISH CREEK
T27N, R43E

GRANTOR	GRANTEE	INST.	DATE	BK.	PAGE	SEC 31						SEC 3			SEC 10			SEC 15			REMARKS
						N/4NW/4	S/4NE/4	SE/4NW/4	NE/4SE/4	W/4SE/4	Lot 1	SE/4SW/4	W/4NE/4	NW/4SW/4	NE/4SW/4	SE/4NW/4	SW/4SE/4	NE/4SW/4	W/4SE/4	SE/4NW/4	

United States	William Lister	PAT	11/10/82 12/28/97	49	132	N/4NE/4 Lot 1 NE/4 NW/4															
United States	Santa Fe Pacific Railroad Co.	PAT	29/11 8/2/11	53	18A	S/4NE/4 SE/4NW/4 NE/4SE/4															
State of Nevada	Gertrude Sibbold	PAT	4/24/22							W/4SE/4 Lot 2											
State of Nevada	Gertrude Sibbold	PAT	4/24/22								Lot 1										
State of Nevada	Isabella Watt	PAT	5/12/02 3/29/04	50	97																
William Lister	George Watt	GBS	3/2/83 3/19/83	46	258																
George Watt		Dieh claim	8/30/89 11/19/89	W.B. A	255																Fish Creek Appropriated 5/1/64
George Watt	Jacob Dreyfus	GBS	11/15/90 11/15/90	48	217																
George Watt	Isabella Watt	BIS	1/7/95 1/10/96	Misc. 4	160																1600 Cattle, 200 horses, 2000 Sheep, 325 tons of hay on Fish Cr.
George Watt	J.A. Miller	CM	6/7/95 6/18/95	CM 1	284																Chalte Mort 1200 cattle, 2000 sheep, 325 tons hay

2
Sample of Chain of Title

F. B. Van Duzee



This includes that I have measured for F. & San Diego a trail of land for cultivation and grazing purposes in Cold Spring State of Nevada situated about 7 miles in a south westerly direction from Mountain City and described as follows. Commencing at a stake on Chain at S. 30 E. of the northwesterly bank of Red Mountain Creek at a point about 7 1/2 miles in a southwesterly direction from Mountain City. Thence S. 83 30 W. 1400 chains to a stake. Thence S. 55 30 E. 50 50 chains. Thence at S. 29 30 E. 57 50 chains to a stake. Thence at S. 30 E. 15 00 chains to a stake. Thence S. 89 30 W. 62 00 chains. Thence at S. 55 30 W. 56 00 chains to the front of Conover's Summit. Culminating 164 acres. Surveyed by two men on Dec. 17 30 E. Surveyed Nov. 11 1869.

Erbe Gravel Quarry, Quarry,
Elk & NW
7th Moholy Reps.

State of Nevada
County of Elko

County of Elko 3 J. T. Van Duzer being duly sworn deposes and swears that he has taken no other claim under the act of the Legislature of the State of Nevada, entitled an act prescribing the mode of locating and defending possession of public lands in this State. Deposition March 9th 1865. that state "Mendocino and Deschutes in the foregoing plat and survey, and that to the best of his knowledge and belief the said lands are not claimed under any existing title.

Subscribed & sworn to before me: J. C. Van Dine
 the 14 Day of December 1869

Seal

Filed for record at the request of F. A. Van Dyne Dec 27 1874 at 11 o'clock P.M.
 R. D. Bufford Recorder
 By F. A. Redgum Dep.
 Recorded January 17 1875 at 12 o'clock P.M.
 W. S. Bufford Recorder By F. A. Redgum Dep.

Elko County
Grand Avenue
Book 1
page 2

Ditch location by Van Duzer on
preemption parcel showing a
priority of 1874

No. Van Duzer Location of Water Right

Notice The undersigned claims
three hundred (300) inches more or less of water
from this creek known as the mountain in Hilton
Creek to be taken out in a ditch over the March 28
land claim known as Van Duzer for the purpose
of mining and irrigating said ditch being located
in the preemption claim mentioned
invention 1874
July 20th 1874
Attest for the County Recorder at the office of No.
Van Duzer July 29th 1874
J. D. Reynolds
Recorder

Elko County
muc
Book 1
page 441

CERTIFICATION OF COPY
STATE OF NEVADA
COUNTY OF ELKO) SS.
I, JERRY D. REYNOLDS, the duly elected and
qualified Recorder of Elko County, in the State of
Nevada, do hereby certify that this is a true, full
and correct copy of the instrument now on record
in this office. IN WITNESS WHEREOF, I have
herewith set my hand and affixed the seal of my
office, in Elko, Nevada this
12th day of May A.D. 1994
JERRY D. REYNOLDS, COUNTY RECORDER
By [Signature] Deputy
(SEAL)

Union District Water Location - Located August 17, 1904
 Notice is hereby given that I the undersigned has this day located this Spring of water for mining and domestic use said Spring being located on the road that leads from Diamond to Pine Valley and aforesaid Spring is about four hundred and fifty (550) yards from said road and about one mile and a half east of Bruffey's ranch. at one time used for irrigating purposes by J. B. Bruffey and later by the undersigned situated in Union District Esmeralda County Nevada and is known as ~~Bruffey's Spring~~
 Located August 17th 1904
 Recorded at the request of J. B. Bruffey ~~August 17, 1904~~ at 20 min past 1 pm
 W. Spruill Recorder

Union District Water Location - Located August 22nd 1904
 Notice is hereby given that I the undersigned has this day located this Spring of water situated in Union District about three miles and a quarter east from Bruffey's ranch and about three hundred yards from the Diamond and Pine Valley road which road passes through Bruffey's Canyon aforesaid Spring is now being worked and improved by the undersigned, the undersigned also has a mining location which includes the Spring, aforesaid Spring located for
 Located August 22nd 1904
 Recorded at the request of J. B. Bruffey ~~August 22, 1904~~ Ditch location showing priority of 1904

September 2nd A.D. 1904
 Notice of Water Location -
 Notice is hereby given that I the undersigned hereby locate and claim for agricultural purposes all the water that comes from any point in the bottom or sides of this Creek channel or water course together with all water that may or does flow into this Creek channel or water course from any Spring along aforesaid water course channel or Creek, said Channel Creek or water course is known as Bruffey's Creek and has a distinct water channel running from a point near the top of Union Summit to Pine Valley. The Diamond and Pine Valley road follows the banks of aforesaid Bruffey's Creek for a distance of five miles. The undersigned has constructed a ditch or artificial channel for the purpose of irrigating a tract of land which lies to the north of this notice in Bruffey's Canyon about three miles south east of Bruffey's ranch, and aforesaid ditch or artificial channel is intended to convey the water from this Creek channel or water course known as Bruffey's Creek on to aforesaid tract of land to be used by the undersigned for agricultural purposes.
 Located September 2nd A.D. 1904
 Recorded at the request of J. B. Bruffey ~~September 2, 1904~~ at 40 min past 1 pm
 W. Spruill Recorder

38. Spring Location
 James Vallierga } Notice of Location,
 State of Nevada }
 County of Esmeralda } ss.

Notice is hereby given that the undersigned, a citizen of the United States, over the age of twenty-one years, does hereby locate, take up, and hold the Spring and each and all of the waters of the same upon which this notice is posted;

378	Western Union Telegraph	Pres. int. in and to 35 th mile Telegraph line along the line of O.P.R.R. (5 mi) Esmeralda County, State of Nevada.
	On	Pres. int. in and to 35 th mile of Telegraph line along the O.P.R.R. (1 mi) in Esmeralda County, State of Nevada.
379	White Mrs James	Personal Property Furniture \$150 Motor \$500 Improvements Hotel Building at Palisade in Esmeralda County, State of Nevada also Span House at Mineral Hill Esmeralda County, State of Nevada.
380	Whitmore N. A.	Personal Property Furniture \$50 Improvements Span House on Palisade, Esmeralda County, State of Nevada.
381	Wilcox Mrs B.	Pres. int. in and to Lots 6-7 Block 26 of the town of Esmeralda Esmeralda County, State of Nevada. Improvements Brick House.
382	Williams Peter	Improvements Span House situated on South Ruby Hill in Esmeralda County, State of Nevada.
383	Williams Thomas	Pres. int. in and to Lots 7-8 Block 46 of the town of Esmeralda Esmeralda County, State of Nevada. Improvements Span House.
8	Copy of 1900 tax roll showing Whelan owns 40 horses and 29 stock cattle	Improvements Span House situated on North Ruby Hill in Esmeralda County, State of Nevada.
384	Whelan John R	Personal Property Furniture \$100 40 Horses \$50 29 Stock Cattle \$125 Wagon \$50
	Assessment Roll 1900	Pres. int. in and to a tract of land situated in Pine Valley Esmeralda County, Nevada. Known as the Whelan Ranch being SW th of Section 20 Township 22 N R. 5 E containing 160 acres. 35% - 22 - 22 N R. 5 E - 160 - Improvements Store House, Stable and Road.
386	Wilson John A.	Personal Property 2 Horses \$20 Wagon \$25 Pres. int. in and to a tract of farming land situated about one mile from the O.P.R.R. Depot in Esmeralda County, State of Nevada. Known as the "Big Ranch" and described as follows:

This application should be filed in the appropriate U. S. F

Original Taylor Grazing
Application showing numbers of
livestock on range, priority of at
least 1904 with sheep and cattle

1-291

(April 1935)

New I
UNITED STATES
DEPARTMENT OF THE INTERIOR
DIVISION OF GRAZING

Application for Grazing Permit

Date AUG 9 1935

Hour _____

Date July 17, 1935.

I, R. B. STEWART of Elko, Nevada
(Name of applicant) (Address)

hereby apply for a permit to graze 1000 cattle; 75 horses;
10000 sheep; _____ goats upon lands of the United States within
the Elko (*New I*) Grazing District, in common with other users, or
as have heretofore been used by applicant and predecessors
(if an individual allotment of range is desired, describe the area

either by Section, Township and Range, or by natural boundaries)

My brands and earmarks are _____

1. Are you a citizen of the United States? Yes By birth? Yes
by naturalization? _____ (If by naturalization, state when naturalized.)

If not a citizen, have you filed the necessary declaration of intention to
become such? _____ When? _____ Where? _____

2. Are you interested, directly or indirectly, in any grazing permit held
or applied for by any other person, firm, or corporation on this or any other
grazing district? If so, give name of permittee and nature and extent of your
interest. No

3. Are you the owner, lessee, entryman, bona fide occupant or settler
(Cross out words not needed) upon any ranch property? Yes Describe such
property by legal subdivisions of the public lands surveys.

On attached sheet.

(Plot holdings on accompanying diagram.)

How many acres of this are now under cultivation? 1100

How many acres are grazing land? 10,230

Where located? See description

(Give section, township and range.)

How much of the above ranch land is used in connection with the stock to be
grazed? All

See facing sheet for additional hay
4. How many tons of hay are produced on the above-described lands during
an average year? 1200 tons Other forage crops? _____ tons Kind

How many tons of grain? _____

5. Where do you reside? Elko, Elko County, Nevada.

(Give city, town, or location of ranch.)

6. Do you own or control any source of water supply needed or used for
livestock purposes? Yes Describe it On range lands

Where located Various

(Section, township, range.)

7. Do you hold a permit to graze stock on a national forest? _____

If so, how many? _____ cattle; _____ horses; 8,016 sheep; _____ goats.

Name of National Forest and location of your range therein _____

Humboldt National Forest

Period of use July 1 to Oct. 15

8. Have you previously used the lands covered by this application for grazing permit? Yes If so, how many years and what is the usual period of use each year? More than thirty years

How many stock have you grazed thereon during the average year? 11,000

9. How many head of livestock do you own? 1,000 cattle; 75 horses; 10,000 sheep; goats. Does any other person own an interest in the stock to be grazed under the permit herein requested? No If so, give name, nature and extent of interest

10. How many range stock do you usually run under normal weather and economic conditions? As above

11. How many milch cows do you keep? How many work horses?

12. If running cattle, do you operate on a cow and calf, steer, or mixed basis? Mixed

13. Do you feed your stock in winter? Yes partly
If so, where? Humboldt and Pershing Counties, Nevada

How long? Dependant upon winter conditions

How many tons of hay or forage per head is fed?

14. If you do not winter feed, where do you winter your stock?

Sheep ranged on desert in winter, close to ranches where feed
(If public land or national forest, give location; if private land, give

is available if needed.
section, township and range.)

15. State your usual method of handling stock the year round?.....

16. If stock are trailed from one range to another in your system of operation, describe routes used. Sheep trailed from winter to summer range and from summer to winter.

I certify that all of the foregoing answers and statements are true and correct to the best of my knowledge and belief.

R B Stewart

(Signature of applicant)

July 17, 1935.

(Date)

NOTE: Animals which are under six months old at the time of entry and which are the natural increase of stock to be grazed under the permit applied for will not be counted and therefore should not be included in this application.

1935 Application to BLM
showing area of use, priority of
1869 for 1100c

UNITED STATES
DEPARTMENT OF THE INTERIOR
DIVISION OF GRAZING CONTROL

018578

Application for Grazing Permit

Date March 27, 1935

I, John G. J. Jones or Palisade, Nevada
(Name of applicant) (Address)

heroby apply for a permit to graze 1500 cattle; 50 horses;

no sheep; no goats upon lands of the United States within

the Nevada # 484 Grazing District, in common with other users, or

Desire community allotment with Pine Valley Cattle only,
(if an individual allotment of range is desired, describe the area

in T. 27, 28, 29, R. 52 T. 27, 28, 29, R. 53 on east side of Valley.
either by Section, Township and Range, or by natural boundaries)

also for secondary consideration T. 28, 29, R. 51 and T. 27, 28
29 R. 50

My brands and earmarks are 1 on each hip & right ear off.

1. Are you a citizen of the United States? yes By birth? yes
by naturalization? no (If by naturalization, state when naturalized.)

If not a citizen, have you filed the necessary declaration of intention to
become such? no When? no Where? no

2. Are you interested, directly or indirectly, in any grazing permit held
or applied for by any other person, firm, or corporation on this or any other
grazing district? If so, give name of permittee and nature and extent of your
interest.

3. Are you the owner, lessee, ~~entireman, bona fide occupant, or settl.~~
 (Cross out words not needed) upon any ranch property? Owner Describe such
 property by legal subdivisions of the public lands surveys.

Lease from J.P. Raine

The east half (E $\frac{1}{2}$) of the Northwest quarter (NW $\frac{1}{4}$)
 and the southwest quarter (SW $\frac{1}{4}$) of Section Four (4),
 and the Southwest quarter (SW $\frac{1}{4}$) of the Northeast quarter
 (NE $\frac{1}{4}$) and the Southeast quarter (SE $\frac{1}{4}$) of Section Five
 (5); the East half (E $\frac{1}{2}$) of Section Eight (8); the West
 half (W $\frac{1}{2}$) of Section Nine (9); the Northwest quarter
 (NW $\frac{1}{4}$) and the West half (W $\frac{1}{2}$) of the Southwest quarter
 (SW $\frac{1}{4}$) of Section Sixteen (16); the Northeast quarter
 (NE $\frac{1}{4}$) of Section Seventeen (17); and the Northwest
 quarter (NW $\frac{1}{4}$) of Section Twenty-one (21) all in Township
 29 North Range 52 East Mount Diablo Base and Meridian
 known as the Hay Ranch.

Together with all water and water rights, ditches
 and ditch rights appurtenant to or used in connection
 with the irrigation of said lands, together also, with
 the water or water rights owned by the lessor in and
 to the water flowing and to flow from what is known as
 and commonly called "Cherry Springs", located about
 three miles westerly from said ranch premises.

Sub. (<u>Section</u>)	Sec.	T.	R.	A.	
W $\frac{1}{2}$ of	8	28 N	52 E	320	
SE $\frac{1}{4}$ of	8			80	for
W $\frac{1}{2}$ of	16			320	
SW $\frac{1}{4}$ of	16			40	
E $\frac{1}{2}$ of	17			320	
NW $\frac{1}{4}$ of	17			160	
NE $\frac{1}{4}$ SW $\frac{1}{4}$ of	17			40	
NE $\frac{1}{4}$ NE $\frac{1}{4}$ of	20			40	
NW $\frac{1}{4}$ of	21			160	
W $\frac{1}{2}$ NE $\frac{1}{4}$ of	21			80	
SE $\frac{1}{4}$ NE $\frac{1}{4}$ of	21			40	
N $\frac{1}{2}$ SE $\frac{1}{4}$ of	21			80	
N $\frac{1}{2}$ SW $\frac{1}{4}$ of	22			80	
Total--				1760 A.	

Name of National Forest and location of your range therein Hay Ranch

Period of use

8. Have you previously used the lands covered by this application for grazing permit? No If so, how many years and what is the usual period of use each year? 66 years

How many stock have you grazed thereon during the average year? Apr. 1 to Dec. 1

9. How many head of livestock do you own? 1100 cattle; 36 horses; None sheep; None goats. Does any other person own an interest in the stock to be grazed under the permit herein requested? No If so, give name, nature and extent of interest

10. How many range stock do you usually run under normal weather and economic conditions? all that hay crop will carry

11. How many milch cows do you keep? 4 How many work horses? 28

12. If running cattle, do you operate on a cow and calf, steer, or mixed basis? Steer

13. Do you feed your stock in winter? Yes
If so, where? Ranches

How long? Until green feed in spring

How many tons of hay or forage per head is fed? 1.2 to 2 lb average

14. If you do not winter feed, where do you winter your stock?

(If public land or national forest, give location; if private land, give section, township and range.)

15. State your usual method of handling stock the year round. Feed hay on ranch during winter - range cattle during spring, summer & fall

16. If stock are trailed from one range to another in your system of operation, describe routes used. Not trailed

I certify that all of the foregoing answers and statements are true and correct to the best of my knowledge and belief.

John W. Goodfellow
(Signature of applicant)

March 27, 1935
(Date)

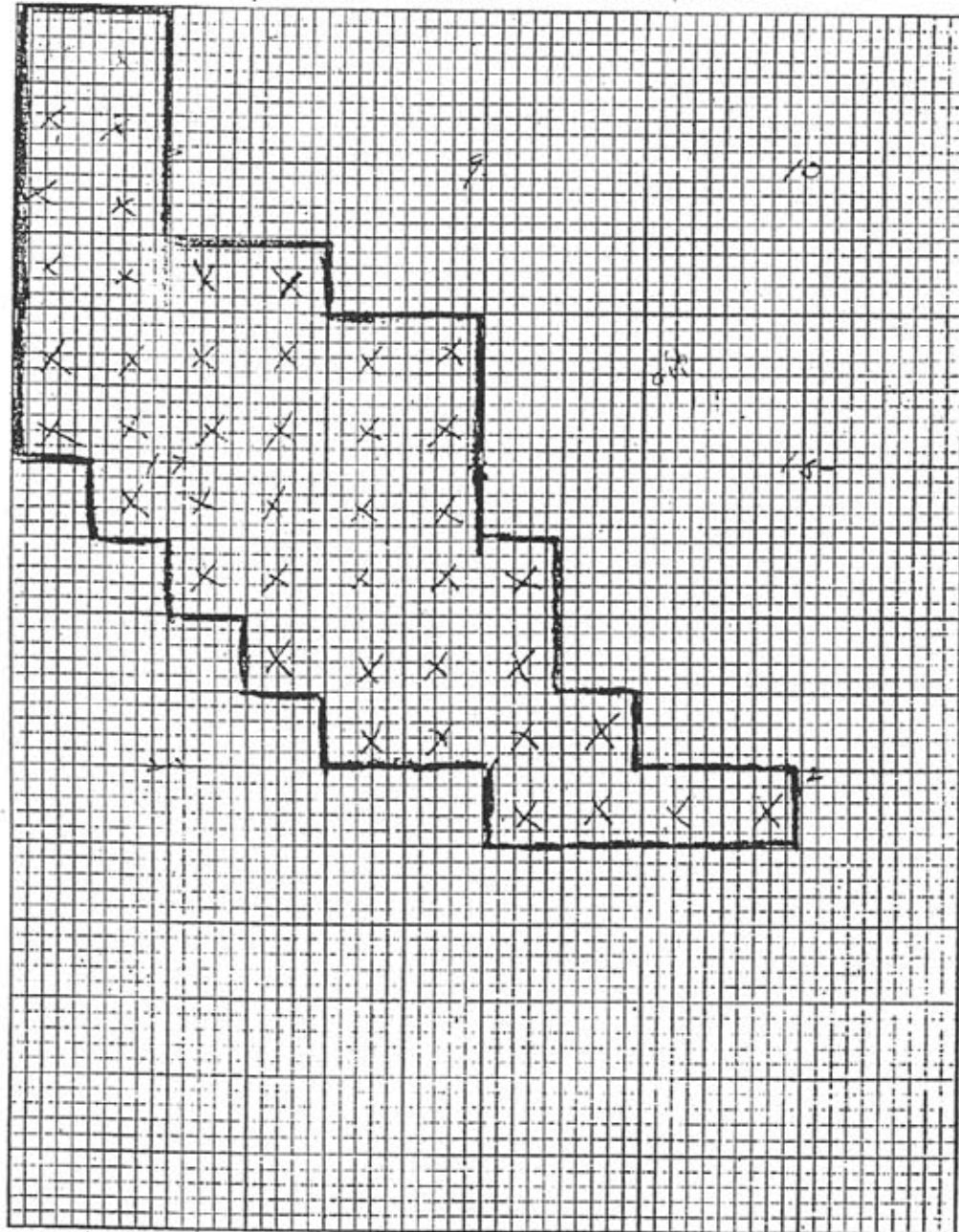
NOTE: Animals which are under six months old at the time of entry and which are the natural increase of stock to be grazed under the permit applied for will not be counted and therefore should not be included in this application.

GRAZING APPLICATION

Map Sheet to accompany application

of *Goodfellow, George W.*T. 28 N R. 52 E Mer. *Not Discovered*

Do not write on this margin



Scale: 2 inches = 1 mile

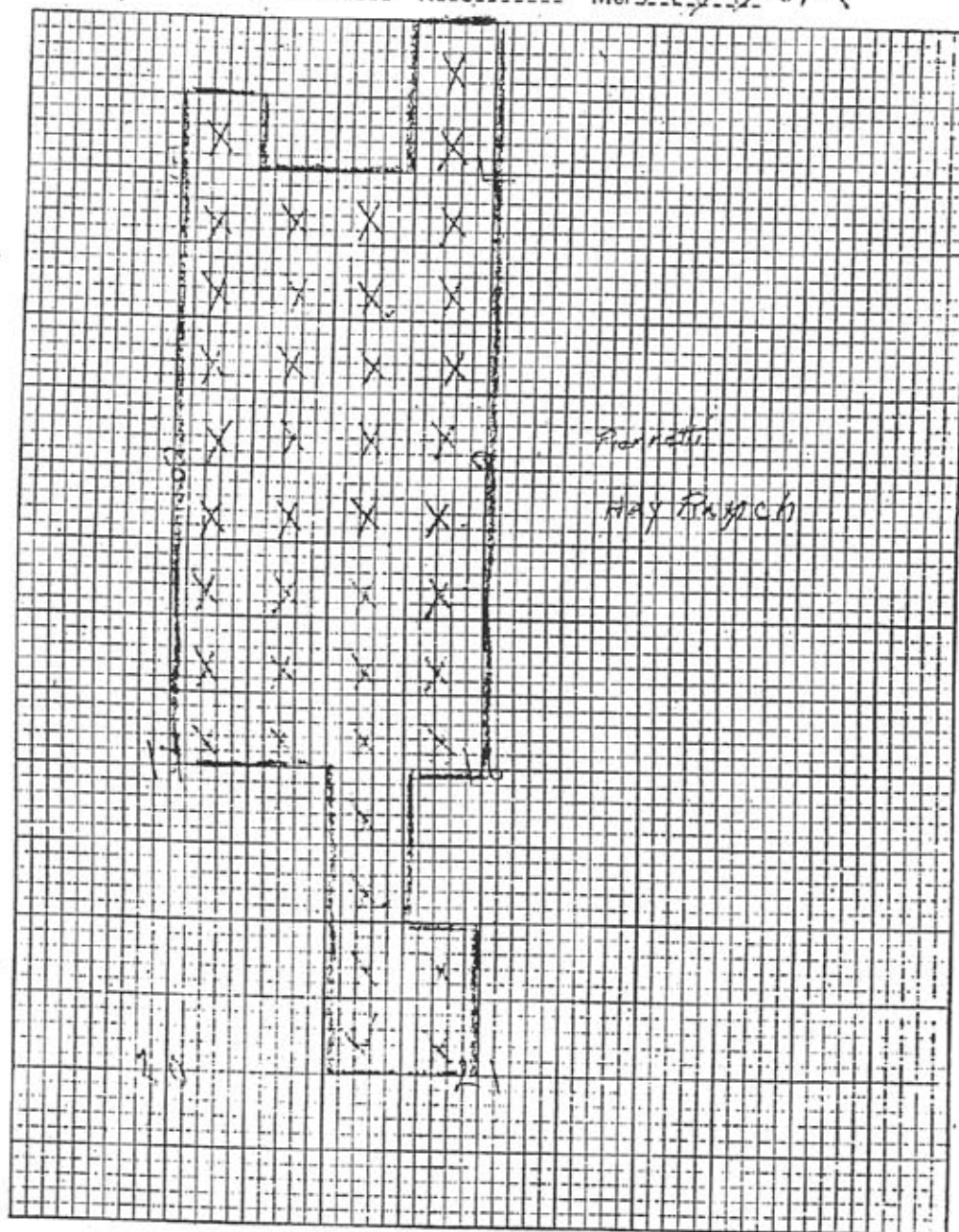
(Do not write on the reverse side of this sheet)

GRAZING APPLICATION

Map Sheet to accompany application

of *Goodfellow, Geo. W. & Land from J. P. H.*T. *29* R. *32* Mer. *M.D.B.M.*

Do not write on this margin



Scale: 2 inches = 1 mile

(Do not write on the reverse side of this sheet)

Dependent Property survey showing priority, numbers on BLM lands

NAMES: T.T. Fairchild

Examiner: V. J. ...

ADDRESS: Las Vegas, Nevada

Date: Dec 7, 1936

Total Owned Land 8562 Acres:

Total Leased Land ————— Acres:

I. FORAGE CROP LAND USE

[illegible]

* The way that is it used is held in open use.

II. PASTURE AND RANGE LAND USE

[illegible]

DUPLICATE COPY

Area unused for grazing (farmstead, non-storage crops, etc.) _____ Acres.

Area leased or rented to others: _____ Type of land _____ Yrs. _____

Supplemental Remarks: _____

Area unused for grazing (farmstead, non-forage crops, etc)

Area leased or rented to others: _____ Type of land _____

Supplemental Remarks:

IV. LIVESTOCK OPERATION

(a) Normal Year Round Operation

LAND CONTROL	PERIOD OF USE		NO. MO.	NO. LIVESTOCK, KIND	ANIMAL MONTHS		
	From	to			Actual	Yd. Stk.	St. Ret.
Public Domain	Nov. 1	Nov. 1	7	1500 s 40%w			
	June 1	Sept 1	3	266 c			
	Sept. 1	Apr. 1	12	524 s			
	Apr. 1	Nov. 1	2.5	316 c	15, 31/0		
Nat'l Forests or Reserves							
Leased Lands (Priv)							
" " (State)							
Private Lands: Pasturage							
Range L.S.	Nov. 1	Jan. 1	2	2000 c 96 h	68/10	3731	6846
FEEDING	June 1	Apr. 1	3	2000 c 90 h			
Other L.S.	Apr. 1	Nov. 1	9	50 h	6000	12000	12000

(b) Supplemental Feeds (Normal)

25,080.

KIND	AMT. PURCHASED	AMT. FED	NO. & KIND LIVESTOCK	WHERE FED	ANIMAL MONTHS (Average)

(c) Dependency of Operation Base to Public Domain

LIVESTOCK CLASS	PRESENT NUMBERS		PRIOR USE HISTORY				
	Total Owned	1936 License	1935	1934	1933	1932	1931
Cattle	5000	See from TLA	2000	2000	2000	2000	2000
Horses	90	40	90	90	90	90	90
Number of Months Used	7	7	7	7	7	7	7

(d) Area description of (customary) Public Domain: Trail distance from base _____ mi (Available)

This area is described as being in T. 39 N. R. 50. and 51 E
And is located on the head of the Shreve River

(e) Other Joint Users of Available Public Domain

NAME	NO. & KIND LIVESTOCK	SEASON MO.	PRIOR USE YRS.	TRAIL DIST. TO BASE
Russell Land Co.	5000 sheep	7	30 yrs	75 miles
Ellison Ranching	10000 sheep	7	"	Adjacent

U. S. LAND OFFICE

4-369a

Form approved by the Secretary of the Interior November 14, 1914.

FILED JAN 25 1915

at 10.00 A.M.

Register OR Receiver

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

Proclamation made June 9, 1912.
Act of June 11, 1905 - List 4-477

U. S. LAND OFFICE

ELKO, NEVADA.

No. 0489.
Carson City 06175.

FINAL PROOF.

TESTIMONY OF WITNESS.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. Albert M. Olin, age 30, postoffice address, Elko, Nevada.

QUESTION 2. Was your name correctly given in the published notice?

ANSWER. It was.

QUESTION 3. How long have you known the claimant in this case and

the tract of land described in list 4-477, and survey 39 by the United States Surveyor General, containing 85.15 acres, situated in the Humboldt National Forest, Nevada, and described as follows: Beginning at Cor. No. 1, thence Cor. No. 1 of Thomas Stinton's homestead bears N. 80° 10' E., 10.94 chs.; thence S. 74° 40' W. 11.40 chs. to Cor. No. 2; thence N. 24° 00' W., 26.70 chs. to Cor. No. 3; thence N. 7° 53' E., 20.00 chs. to Cor. No. 4; thence N. 16° 00' W., 25.00 chs. to Cor. No. 5; thence N. 63° 35' E., 6.30 chs. to Cor. No. 6; thence N. 82° 15' E., 9.50 chs. to Cor. No. 7, bears N. 18° 45' W., 25.00 chs. to Forest Service Monument No. 7; thence S. 18° 50' E., 31.52 chs. to Cor. No. 8; thence S. 31° 30' E., 6.60 chs. to Cor. No. 9; thence S. 15° 30' E., 3.00 chs. to Cor. No. 10; thence N. 74° 30' E., 2.88 chs. to Cor. No. 11; thence S. 14° 45' E., 3.87 chs. to Cor. No. 12; thence S. 74° 30' W., 2.88 chs. to Cor. No. 13; thence S. 15° 15' E., 6.50 chs. to Cor. No. 14; thence S. 74° 30' W., 1.50 chs. to Cor. No. 15; thence S. 12° 10' E., 27.15 chs. to Cor. No. 1, the place of beginning, forming a part of Sec. 1, T. 45 N.; and Sec. 36, T. 46 N., R. 53 E., N. D. M.

QUESTION 4. When did entryman settle upon the homestead?

ANSWER. About 16 years ago.

QUESTION 7. At what date did entryman establish actual residence thereon?

ANSWER. About 16 years ago.

QUESTION 8. Have entryman and family resided continuously on the homestead since thus establishing residence thereon?

ANSWER. The claimant has.

QUESTION 9. Have entryman and family ever been absent from the homestead since thus establishing residence thereon?

ANSWER. Claimant has never been absent to my knowledge.

QUESTION 10. If there have been any such absences, give the dates covered by such absences, stating who was absent and for what reason.

ANSWER. No absences.

12

Affidavit submitted in connection with proof required for Homestead

QUESTION 11. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
The entire tract, about	65	none	none
The land is river bottom soil, part of it on a bench, sloping towards the river. It is sandy loam, some is black.			

QUESTION 12. State the number of acres cultivated and kind of crop planted, each year:

ANSWER. 19... When claimant took up the place, about 40 acres had been put in to timothy and red-top, and was in crop at that time. 19... Claimant has kept up the old ditches, and put in two new ditches, and this 40 acres was irrigated by means of these ditches each 19... year. Parts of the land were seeded, and harrowed in each year, to maintain the growth of hay.

19...
19... 40 acres, some of it to oats and rye. 35 or 40 tons of hay were cut. 30 acres in oats and rye together. About 40 tons of hay were cut from this crop. Also 30 acres in timothy hay which did not result very favorably, but there was about 1 1/2 to the acre out.

QUESTION 13. Describe fully and in detail the amount and kind of improvements and number of acres under cultivation on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
6 room dwelling house, built of logs on the outside, and finished inside with lumber and steel roofing	\$2000.
2 large barns, built of lumber, one of which will hold 16 or 18 head of horses, with a saddlery and granary attached,	1000.
5 stock corrals; cow shed; and a number of other smaller buildings the use of which I could not say value unknown.	
ditch on east side of the river, 3/4 mile long,	1000.
west " " " " " " " " value unknown.	
About a mile of fence, the lower half fenced with 5' woven wire, and the upper part fenced with 4 barb wires. The barb wire is valued at least	\$500.

QUESTION 14. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. None that I have ever seen.

QUESTION 15. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose and in what amount.

ANSWER. No.

QUESTION 16. Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. I have.....

QUESTION 17. How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER. Up until last November, I lived right next door to claimant for 20 years, and am intimately acquainted with the improvements, residence, etc.....

QUESTION 18. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. Not interested in the claim, and not related to claimant....

Albert M. Olis

(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 125 of the U. S. Criminal Code (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed

and sworn to before me at my office, in.....ELKO, ELKO, NEVADA.
(Town, county, and State.)

within the.....ELKO, NEVADA.....land district,

this..twenty-fifth...day of..January....., 1916.

Ashley K. Dawley

Receiver, U. S. Land Office.....
(Official designation of officer.)

UNITED STATES CRIMINAL CODE.

Sec. 125. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

*5-472

TUSCARORA TIMES-REVIEW.
Saturday, August 17, 1889

Pattle Mountain Nevadan: Johnny Geraghty, who arrived here from the northern part of Elko county last Saturday, reports game and water scarce in that part of the country. He says there is plenty of game in the mountains up near Bruneau.

August 19,

A Good Flow

Independent: (This issue gives a report on the flow of water from the South Fork.)

The wind blew a gale last night. Fires were necessary for comfort this morning.

August 21,

Nevada is not the only State that is feeling the effects of the terrible drought. Grain is being shipped from Sacramento valley to Lakeview, Oregon, which is on Goose Lake, at the head of Pitt River.

August 26,

In consequence of the scarcity of freight between the railroad and this place quite a number of teamsters have hauled off and turned out their stock.

Free Press: The ranchers along the river between Osino and Moline have cut good hay crops this season. Bigelow & Co. have about 100 tons, Bruce has 120, Fernald 180, Deware over 200 tons, Van Frielan 80 or 90 tons, Mulcahy 100 or 150, James Russell about 100, Litton and Hutton between 500 and 600 and Hunter Bros. over 600 tons.

August 28,

The Washoe Indians have just completed a seven day's rain dance at Double Springs in Douglas county. There were between 300 and 400 on the ground. A cloudburst may be looked for.

September 2, 1889

One of the most disagreeable wind storms ever experienced here, passed over this section last Saturday afternoon.

September 3,

The pine-nut trees have borne a plentiful harvest this year. The Indians (the few of them that are left) say that the winter is to be long and hard, when pine-nuts are in plenty. Nature formed the pine-nut trees for the special duty of carrying the Indians through a winter. Light winter, light crop; heavy winter, heavy crop.

White Pine News: - Well digging seems to be all the rage in Ely just now. J. B. Simpson put the ball in motion on this side of the stree by sinking a well in front of his residence and obtaining a good run of water at a depth of 30 feet, thus demonstrating beyond a doubt that water can be got anywhere in town at a depth not to exceed 40 feet.

Sample writeup of attachment to
proof to evidence of livestock
numbers

ATTACHMENT
AMENDED SERIAL NO. 06667

Item No. 2, Item No. 4 - Source of Water, Point of Diversion

Source: McCan Creek and Tributaries (Berry Cr.)
POD #1: NE¼ SW¼ Section 8, Township 39 North, Range 51 East, MDM.

USGS 7.5 Minute Quad: Mount Blitzen, Nevada.

Item No. 8 - Recordation of Claimant's Water Right

Not recorded.

Item No. 9 - Livestock Watered by Claimant in First Year

Portions of the property upon which the range livestock are based were first used for such livestock at the time mining started at Tuscarora in the 1870's. As early as 1871 the Elko Independent newspaper makes reference to the ditch and ranch property of the Beard Bros. (November 25, 1871). The same newspaper reports Beard Bros. as furnishing 15 head of horses for work (July 4, 1874). However, it is difficult to locate written information which would indicate the number of livestock first watered. A search of available records shows that a predecessor of the claimant, John Beard, one of the Beard Bros., mortgaged 130 horses which were described as ranging in the area in 1891. A chattel mortgage was recorded in Book 1 of Chattel Mortgages at Page 798. Although historical accounts evidence an earlier date for range livestock watering, the date of 1874 is claimed. The season of use claimed is March 15 to December 31.

Item No. 10 - Livestock Watered by Claimant in Subsequent Years

Prior to 1905, the property presently owned by the claimant was several small er ranch operations, each of which made use of this source. Available records in the office of the Elko County Recorder are used to evidence number of livestock watered by predecessors.

The record of chattel mortgages maintained in the office of the Elko County Recorder evidence the following numbers:

<u>Book and Page</u>	<u>Year</u>	<u>Name</u>	<u>Numbers</u>
Book 1, Page 798	1891	John Beard	130 horses
Book 2, Page 286	1892	H. W. Brown	250 horses
			250 cattle
Book 3, Page 169	1895	T. C. Plunkett	175 cattle
Book 3, Page 578	1897	Fred Wilson	100 cattle
			905 head

Information as to additional predecessors are obtained from the tax roll of Elko

County for the year of 1905, which would evidence numbers for 1904:

<u>Owner</u>	<u>Numbers</u>
W. F. Roseberry	100 cattle
Phillips Bros.	93 cattle
J. N. Phillips	47 cattle
W. P. Young	20 cattle
	<u>40 cattle</u>
	400 cattle

A portion of the claimant's property was owned by Pedro Altube in 1905, who was assessed for 6,000 cattle, 7,000 sheep and 350 horses in that year. Based on production, it is assumed that 200 cattle would have watered at this source and such right was acquired with the purchase of the Altube lands by the claimant's predecessors.

Claimant was also a successor-in-interest to some lands owned by Russell & Bradley Land and Cattle Company who were assessed for 2,000 cattle and 20 horses in 1894. Again, on the basis of production, it is assumed that 200 cattle would be attributed to those lands, which have since been traded for other lands.

All of the above sources of information show a minimum of 1,605 head of water in 1905. This is considered to be a conservative number for the reason that by 1937, J. N. Phillips had consolidated the ownership of the claimant's property. A conveyance recorded in Book 47 of Deeds at Page 477 executed by J. N. Phillips, et ux., inventoried the sale of the following numbers:

551 steers
312 heifers
982 cows
326 calves
53 weaners
<u>32 bulls</u>
2,256 total

A total of 1,600 head priority is claimed.

Prior to decisions and range agreements resulting from Bureau of Land Management administration of unfenced range lands, these livestock used a number of other water sources in the area in common with other owned livestock. The number of livestock has varied from year to year only due to weather and forage conditions and land management agency decisions.

Time of use is year round with 1,200 cattle within a prior use period of March 15 to November 1 and 100 cattle November 1 to December 31.

Item No. 11 - Amount of Water Diverted

This amount is based on 1,600 head of claimed priority and is 0.05 cubic feet per second.



Nevada Division of State Lands Department of Conservation & Natural Resources



State Lands Patent Database Query Page

Enter Your Search Criteria:

Section: Township: Range:

Example: Section: 36 Township: 13 N Range: 19

OR:

Patentee:

Example: Lewis

OR:

Patent #:

Example: 100

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Internet homepage for the Nevada Division of State Lands Patent Database.

pg 444
Book 2
Misc.
Lander
Co.

Year first above written.

Wm. C. McKey
John Horrell
J. M. Adams
Thomas Short
Timothy Kealey
Thomas Evans
Daniel Dalton
Timothy Kealey
Patt. Ruggan
J. J. Dunn

Signed, sealed and delivered
in presence of C. J. Lansing
W. C. and Stat. Secs 26 & 27
Recorded at Request of Wells Fargo & Co. December 27th A.D. 1876
at W. C. D. Spines Recorded

Pritchard's Palisade Road.

State of Nevada }
County of Elko } I, W. G. Pritchard do hereby declare that I
have duly surveyed and located Road to be
known as "Pritchard's Palisade Road" for the
purpose of transporting and freighting goods merchandise &c. to and
from the Palisade Station on the Central Pacific Rail Road.

Said road commencing at a point on the West side of Pine Valley
bearing N. 45° W. and distant 1320 feet from the Horned House in
said valley thence running S. 5° E. 3500 feet thence S. 40° E. 900 feet
to a point where the foot hills intersect the northern extremity of the tule
lands in Pine Valley, thence along the margin of said tule lands and
foot hills S. 23° W. 1800 feet thence continuing along said margin of
foot hills & tule lands due South 2000 feet thence along a fence line
West of Mc Donalds Stone House thence in a southerly direction crossing
said foot hills 5280, thence S. 15° W. 7920 feet to the base of a foresaid
foot hills thence along the base of said foot hills S. 10° E. 2640 feet
thence due South 3960 feet thence S. 45° E. 2640 feet thence South 10.560
feet to Fort Station on said road thence South 15° East 6600 feet to the
top of Ridge in foot hills thence South 15° W. 7920 feet thence S. 30° E.
2640 feet thence South 5280 feet to a point opposite (or West) of Bendish
Ranch thence South along said foot hills 11,880 feet to the Twin Springs
thence South a distance of 9 miles to the single spring at the head of
Pine Valley and thence S. 10° E. a distance of 10 miles to the old chimney
Station. The accompanying plat designating the termini & location
of said Road, Located in the Counties of Lander and Elko, State of
Nevada.

In Witness Whereof I have hereunto set my hand and seal
this twenty fourth day of December A. D. 1876.
Signed, sealed in the presence of
F. H. Rogers
W. C. and Stat. Secs 26 & 27
W. G. Pritchard (L.S.)



Foot hills

A Diagram of

Dr. Richard P. Morris de Rome.

Surveyed between 1877 & 1878.

Wm. H. H. H. H. H.

Scale 1 inch = 1/2 mile.

Application No. 6585

File No. 17845.
Certificate Record No. 1519.

Book 6 Page 1519.

THE STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Pedro Corta has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from Corta Well No. 2 through pipe line for Stockwatering purposes. The point of diversion of water from the source is as follows: in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14, T. 26 N., R. 52 E., M.D.B. & M., or S. 5°00' E., 4366 feet from the NW corner Sec. 14, T. 26 N. R. 52 E., M.D.B. & M. situated in Eureka County, State of Nevada.

NOW KNOW YE, That the State Engineer, under the provisions of Section 72, Chapter 140, Statutes of 1913 has determined the date, source purpose and amount of such appropriation, together with the place to which such water is appurtenant, as follows:

Name of appropriator Pedro Corta

Postoffice address Jiggs, Nevada

Amount of appropriation 0.025 C.F.S. or sufficient to water 4000 head of sheep.

Period of use, from September 1 to November 1 of each year.

Date of priority of appropriation November 7, 1921

Description of works of diversion, manner and place of use:

Water is conveyed from a well which is 10 feet long, 6 feet wide, and 10 feet deep through 110 feet of 2 inch pipe to eight wooden troughs 1 foot wide, 1 foot deep, and 16 feet long where it is used for the watering of 4000 head of sheep.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place where acquired and to the purpose for which acquired.

IN TESTIMONY WHEREOF, I, Geo. W. Malone, State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 21st day of February, A.D. 1929.

(State Engineer's Seal)

Geo. W. Malone
State Engineer.

ENDORSED: STATE OF NEVADA CERTIFICATE OF APPROPRIATION OF WATER Application Number 6585
Certificate Number 1519 Book 6 Page 1519.

Recorded at the request of Badt & Dysart Mar. 11, A.D. 1929 At 46 minutes past 4 P.M.

Peter Merialdo--Recorder.

STATE ENGINEER'S FEE SCHEDULE

(NRS 533.435, as of 2006)

APPLICATIONS

Appropriation	\$250
Permanent Change of MOU, POD or POU	\$150
Temporary Change of MOU, POD or POU	\$100
Dam Construction.....	\$500
Secondary Reservoir Permit.....	\$200
Environmental.....	\$150

PERMITS

Appropriation (except hydropower, stock, & wildlife)	\$150 + \$2/af
Appropriation (stock & wildlife).....	\$50
Appropriation (hydropower)	\$100/cfs
Change of POU or POD (except stock, wildlife, irrigation, hydro)	\$100 + \$2/af
Change of POU or POD (stock & wildlife)	\$50/cfs
Change of POU or POD (irrigation)	\$200
Change of POU or POD (hydropower)	\$100/cfs
Secondary Reservoir Permit.....	\$200
Environmental.....	\$150 + \$1/af

OTHER FEES

Annual Storage for private non-agricultural dams in excess of 50 af.	\$100 + \$1/af
Reviewing of tentative map.....	\$150 + \$1/lot
Proof of Completion.....	\$10
Proof of Beneficial Use.....	\$50
Extension of time	\$100
Protest	\$25
Blueprints (maps).....	\$3/sheet
Assignments (decrees, claims, permits, certs & proofs)	\$25 + \$10/deed

PROOF OF APPROPRIATION (Vested)

Stockwater	\$50
All others	\$100

For all other fees, see NRS 533.435